

HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.38 of 2007

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Between:

The Secretary Grade-II,
Agricultural Market Committee,
Nizamabad, Nizamabad District.

.....Appellant

And

D. Jagadeeswar

.....Respondent.

:: J U D G M E N T ::

Counsel for the appellant : Sri V.V.N.Narayana Rao

Counsel for the respondent : Sri
J.Kanakaiah

19th January, 2007

Per G.S. SINGHVI, C.J.

Whether the vehicle of the respondent could be seized by the officers of Agricultural Market Committee, Nizamabad (for short, 'the Market Committee') by invoking Section 17-C(7) of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (for short, 'the Act') is the only question which arises for determination in this appeal filed for setting aside order dated 27-1-2006 passed by the learned Single Judge.

The facts necessary for deciding the aforementioned question are as under:

- i) the respondent is the owner of lorry bearing registration No.APJ-975 and had valid permit to operate the same up to 25-4-2004;

- ii) the vehicle was hired by a commission agent operating in the Market Committee, and
- iii) the vehicle was seized by the appellant on 16-5-1999 on the ground that the same was found loaded with 53 bags of turmeric and was being plied without trip sheet and valid permit.

The respondent challenged the seizure of the vehicle in Writ Petition No.18819 of 2000. He pleaded that the non-petitioner (the appellant herein) does not have the jurisdiction, power or authority to seize the vehicle because there was no contravention of the provisions of the Act and that the absence of trip sheet and valid permit could not be made a ground for seizure of the vehicle.

In the counter filed by the non-petitioner (the appellant herein), it was pleaded that the vehicle was seized opposite the shop of M/s.Amandu Gangaram and B.Hanumanulu, a licence holder of the Market Committee, who had closed the shop on 15-5-1999 and was in arrears to the tune of Rs.1 Crore payable to the farmers. It was further averred that the vehicle was taken away by the aggrieved farmers and for this a complaint was lodged with the police. According to the appellant, the respondent did not comply with the conditional interim order passed by this Court on 23-10-2000 in WPMP.No.23874 of 2000 (Writ Petition No.18819 of 2000) and, therefore, the vehicle could not be released.

The learned Single Judge held that Section 17-C(7) of the Act was not available to the non-petitioner for seizure of the vehicle and there was no other valid ground for depriving the writ petitioner of his valuable property. Accordingly, he allowed the writ petition with costs of Rs.25,000/-.

Sri V.V.N.Narayana Rao, learned counsel for the appellant argued that even though Section 17-C(7) of the Act could not have been invoked by the appellant for effecting seizure of the vehicle, his action could not be termed as malicious and the learned Single Judge was not justified in imposing exemplary costs of Rs.25,000/- on the Market Committee. Learned counsel submitted that the vehicle was seized because it was found parked in front of the shop of M/s.Amandu Gangaram and B. Hanumanulu, who was in arrears of Rs.1 Crore and the driver did not have the trip sheet and valid permit.

In our opinion, there is no merit in the arguments of the learned counsel and the appeal is liable to be dismissed summarily. Section 17-C(7) of the Act, which was invoked by the appellant for effecting seizure of the vehicle belonging to the respondent, reads as under:

“17-C(7) The assessing authority or the officer so authorized shall have power to seize any notified agricultural produce, livestock or

products of livestock taken or proposed to be taken out of the notified market area either by human labour or in any vehicle, vessel or other conveyance, if such officer has reason to believe that any fees or other amount-due under this Act, in respect of such produce has not been paid. Such seizure shall forthwith be reported by the authority or officer aforesaid to a Magistrate having jurisdiction to try the offences under this Act and the provisions of Sections 457, 458 and 459 of the Code of Criminal Procedure, 1973 shall, so far as may be, apply in relation to such notified agricultural produce, livestock or products of livestock so seized as they apply in relation to any property seized by a police officer.”

The plain language of the above reproduced provision makes it clear that the assessing authority or an officer authorized in that behalf can seize any notified agricultural produce or livestock or products of livestock, if he has reason to believe that any fee or other amount due under the Act in respect of such produce has not been paid. There is nothing in Section 17-C(7) of the Act from which it can be inferred that the assessing authority or the authorized officer is empowered to seize any vehicle used for transportation of agricultural produce etc. or otherwise.

It is neither the pleaded case of the appellant nor any evidence has been brought before the Court to show that the respondent was in arrears of any fee or other amount due under the Act. Therefore, the appellant could not have seized the vehicle on the pretext that the same was parked in front of the shop of the licensee, who was in arrears of the dues of farmers or on the ground that the driver did not have trip sheet or valid permit.

In view of the above, the conclusion recorded by the learned Single Judge that by effecting seizure of the vehicle of the respondent, the officer concerned had acted in wanton disregard of the provisions of law cannot be faulted.

We are further of the view that the learned Single Judge did not commit any error by awarding costs of Rs.25,000/- to the writ petitioner because he was deprived of his valuable property without the sanction of law. The manner in which the appellant seized the vehicle of the respondent and then allowed the farmers to take it away gives an impression that the officer had deliberately done so with a view to cause incalculable harm to the respondent, who is yet to get back his vehicle in compliance of the direction given by the learned Single Judge.

No other point has been argued.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.58 of 2007 filed by the

appellant for suspending the operation of the order impugned in the appeal is also dismissed.

G.S.SINGHVI, C.J.

19th January, 2007

C.V.NAGARJUNA REDDY, J.

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